

By Representative Russell

1 A bill to be entitled
2 An act relating to driving under the influence;
3 amending s. 316.192, F.S.; providing that any
4 person convicted of driving under the influence
5 must, in addition to any other penalties
6 provided by law, complete a substance abuse
7 education course conducted by a licensed DUI
8 program, including a psychosocial evaluation,
9 and, if referred, substance abuse treatment;
10 amending s. 316.193, F.S.; providing that any
11 person convicted of driving under the influence
12 must, in addition to any other penalties
13 provided by law, complete a substance abuse
14 education course conducted by a licensed DUI
15 program, including a psychosocial evaluation,
16 and, if referred, substance abuse treatment;
17 amending s. 322.271, F.S.; providing that any
18 person convicted of driving under the influence
19 must, in addition to any other penalties
20 provided by law, complete a substance abuse
21 education course conducted by a licensed DUI
22 program, including a psychosocial evaluation,
23 and, if referred, substance abuse treatment;
24 amending s. 322.291, F.S.; providing that any
25 person convicted of driving under the influence
26 must, in addition to any other penalties
27 provided by law, complete a substance abuse
28 education course conducted by a licensed DUI
29 program, including a psychosocial evaluation,
30 and, if referred, substance abuse treatment;
31 amending s. 322.292, F.S.; providing criteria

1 for the granting of DUI program licenses and
2 deleting obsolete language; authorizing a fee;
3 providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:

6
7 Section 1. Subsection (4) of section 316.192, Florida
8 Statutes, is amended to read:

9 316.192 Reckless driving.--

10 (4) In addition to any other penalty provided under
11 this section, if the court has reasonable cause to believe
12 that the use of alcohol, chemical substances set forth in s.
13 877.111, or substances controlled under chapter 893
14 contributed to a violation of this section, the court shall
15 direct the person so convicted to complete a DUI program ~~the~~
16 substance abuse education course and evaluation as provided in
17 s. 316.193(5) within a reasonable period of time specified by
18 the court. If the DUI program ~~agency~~ conducting such course
19 and evaluation refers ~~may refer~~ the person to an authorized
20 substance abuse treatment provider ~~agency~~ for substance abuse
21 evaluation and treatment, ~~the~~ the directive of the court
22 requiring completion of such course, evaluation, and treatment
23 shall be enforced as provided in s. 322.245. The referral to
24 treatment resulting from the DUI program evaluation shall not
25 be waived without a supporting independent psychosocial
26 evaluation conducted by an authorized substance abuse
27 treatment provider appointed by the court, which shall have
28 access to the DUI program psychosocial evaluation before the
29 independent psychosocial evaluation is conducted. The court
30 shall review the results and recommendations of both
31 evaluations before determining the request for waiver. The

1 offender shall bear the full cost of this procedure. If a
2 person directed ~~referred~~ to a DUI program substance abuse
3 education course and evaluation or referred to treatment under
4 this subsection fails to report for or complete such course,
5 evaluation, or treatment ~~or education~~, the ~~agency conducting~~
6 ~~the~~ DUI program shall notify the court and the department of
7 the failure. Upon receipt of such notice, the department
8 shall cancel the person's driving privilege, notwithstanding
9 the terms of the court order or any suspension or revocation
10 of the driving privilege. The department may ~~shall~~ reinstate
11 the driving privilege upon verification from the DUI program
12 that the education, evaluation, and treatment are completed.
13 The department may temporarily reinstate the driving privilege
14 on a restricted basis for a period not to exceed 90 days upon
15 verification that the offender has entered treatment and if
16 the DUI education course and evaluation requirement has been
17 completed. If the DUI program notifies the department of the
18 second failure to complete treatment, the department shall
19 only reinstate the driving privilege after notice of
20 successful completion of treatment from the DUI program ~~when~~
21 ~~the person completes the substance abuse education course or~~
22 ~~reenters treatment required under this subsection.~~

23 Section 2. Subsection (5) of section 316.193, Florida
24 Statutes, 1998 Supplement, is amended to read:

25 316.193 Driving under the influence; penalties.--

26 (5) The court shall place all offenders ~~any offender~~
27 convicted of violating this section on monthly reporting
28 probation and shall require attendance at a substance abuse
29 course conducted by a DUI program licensed by the department
30 pursuant to s. 322.292, which shall include a psychosocial
31 evaluation of the offender. ~~If licensed by the department;~~

1 ~~and~~ the DUI program refers ~~agency conducting the course may~~
2 ~~refer~~ the offender to an authorized substance abuse treatment
3 ~~service~~ provider for substance abuse evaluation and treatment,
4 in addition to any sentence or fine imposed under this
5 section, completion of all such education, evaluation, and
6 treatment shall be a condition of reporting probation. The
7 offender shall assume reasonable costs for such education,
8 evaluation, and treatment, ~~with completion of all such~~
9 ~~education, evaluation, and treatment being a condition of~~
10 ~~reporting probation.~~ The referral to treatment resulting from
11 the a psychosocial evaluation shall ~~may~~ not be waived without
12 a supporting independent psychosocial evaluation conducted by
13 an authorized substance abuse treatment provider ~~agency~~
14 appointed by the court which shall have ~~and with~~ access to the
15 original evaluation before the independent psychosocial
16 evaluation is conducted. The court shall review the results
17 and recommendations of both evaluations before determining the
18 request for waiver. The offender shall bear the full cost of
19 this procedure. The term "substance abuse" means the abuse of
20 alcohol or any substance named or described in Schedules I
21 through V of s. 893.03. If an offender referred to treatment
22 under this subsection fails to report for or complete such
23 treatment, or fails to complete the DUI program substance
24 abuse education course and evaluation, the DUI program shall
25 notify the court and the department of the failure. Upon
26 receipt of the notice, the department shall cancel the
27 offender's driving privilege, notwithstanding the terms of the
28 court order or any suspension or revocation of the driving
29 privilege. The department may temporarily ~~shall~~ reinstate the
30 driving privilege on a restricted basis for a period not to
31 exceed 90 days upon verification from the DUI program that the

1 offender has entered treatment and the DUI education course
2 and evaluation requirement have been completed. If the DUI
3 program notifies the department of the second failure to
4 complete treatment, the department shall only reinstate the
5 driving privilege after notice of completion of treatment from
6 the DUI program ~~when the offender completes the substance~~
7 ~~abuse education course or enters treatment required under this~~
8 ~~subsection.~~ The organization that conducts the substance
9 abuse education and evaluation may not provide required
10 substance abuse treatment unless a waiver has been granted to
11 that organization by the department. A waiver may be granted
12 only if the department determines, in accordance with its
13 rules, that the service provider that conducts the substance
14 abuse education and evaluation is the most appropriate service
15 provider and is licensed under chapter 397 or is exempt from
16 such licensure. All DUI treatment programs providing treatment
17 services on January 1, 1994, shall be allowed to continue to
18 provide such services until the department determines whether
19 a waiver should be granted. A statistical referral report
20 shall be submitted quarterly to the department by each
21 organization authorized to provide services under this
22 section.

23 Section 3. Paragraph (a) of subsection (2) of section
24 322.271, Florida Statutes, 1998 Supplement, is amended to
25 read:

26 322.271 Authority to modify revocation, cancellation,
27 or suspension order.--

28 (2)(a) Upon such hearing, the person whose license has
29 been suspended, canceled, or revoked may show that such
30 suspension, cancellation, or revocation of his or her license
31 causes a serious hardship and precludes the person's carrying

1 out his or her normal business occupation, trade, or
2 employment and that the use of the person's license in the
3 normal course of his or her business is necessary to the
4 proper support of the person or his or her family. Except as
5 otherwise provided in this subsection, the department shall
6 require proof of the successful completion of the applicable
7 department ~~an~~ approved driver training course or DUI substance
8 abuse ~~education~~ course, which shall include a psychosocial
9 evaluation and treatment, if referred, and may require letters
10 of recommendation from respected business persons in the
11 community, law enforcement officers, or judicial officers in
12 determining whether such person should be permitted to operate
13 a motor vehicle on a restricted basis for business or
14 employment use only and in determining whether such person can
15 be trusted to so operate a motor vehicle. The referral to
16 treatment resulting from the psychosocial evaluation shall not
17 be waived without a supporting independent psychosocial
18 evaluation conducted by an authorized substance abuse
19 treatment provider appointed by the department, which shall
20 have access to the DUI program psychosocial evaluation before
21 the independent psychosocial evaluation is conducted. The
22 department shall review the results and recommendations of
23 both evaluations before determining the request for waiver.
24 The offender shall bear the full cost of this procedure. If a
25 driver's license has been suspended under the point system or
26 pursuant to s. 322.2615, the department shall require proof of
27 enrollment in the applicable department's ~~an~~ approved driver
28 training course or licensed DUI program substance abuse
29 education course, including evaluation and treatment if
30 referred, and may require ~~the~~ letters of recommendation
31 described in this subsection to determine if the driver should

1 be reinstated on a restricted basis; if such person fails to
2 complete the approved course within 90 days after
3 reinstatement or subsequently fails to complete treatment, if
4 applicable, the department shall cancel his or her driver's
5 license until the course, and treatment, if applicable, is
6 successfully completed, notwithstanding the terms of the court
7 order or any suspension or revocation of the driving
8 privilege. The privilege of driving on a limited or restricted
9 basis for business or employment use shall not be granted to a
10 person who has been convicted of a violation of s. 316.193
11 until completion of the DUI substance abuse ~~such~~ education or
12 training course, evaluation, and treatment, if referred.
13 Except as provided in paragraph (b), the privilege of driving
14 on a limited or restricted basis for business or employment
15 use shall not be granted to a person whose license is revoked
16 pursuant to s. 322.28 or suspended pursuant to s. 322.2615 and
17 who has been convicted of a violation of s. 316.193 two or
18 more times or whose license has been suspended two or more
19 times for refusal to submit to a test pursuant to s. 322.2615
20 or former s. 322.261.

21 Section 4. Subsection (2) of section 322.291, Florida
22 Statutes, is amended to read:

23 322.291 Driver improvement schools; required in
24 certain suspension and revocation cases.--Except as provided
25 in s. 322.03(2), any person:

26 (2) Whose license was suspended under the point
27 system, was suspended for driving with an unlawful
28 blood-alcohol level of 0.10 percent or higher before January
29 1, 1994, was suspended for driving with an unlawful
30 blood-alcohol level of 0.08 percent or higher after December
31

1 31, 1993, or was suspended for refusing to submit to a lawful
2 breath, blood, or urine test as provided in s. 322.2615
3
4 shall, before the driving privilege may be reinstated, present
5 to the department proof of enrollment in a department-approved
6 advanced driver improvement course or DUI substance abuse
7 education course, which shall include a psychosocial
8 evaluation and treatment, if referred. If the person fails to
9 complete such course or evaluation within 90 days after
10 reinstatement, or subsequently fails to complete treatment, if
11 referred, the DUI program shall notify the department of the
12 failure. Upon receipt of the notice, the department shall
13 cancel the offender's driving privilege, notwithstanding the
14 expiration of the suspension or revocation of the driving
15 privilege ~~the driver's license shall be canceled by the~~
16 department until such course is successfully completed. The
17 department may temporarily reinstate the driving privilege on
18 a restricted basis for a period not to exceed 90 days upon
19 verification from the DUI program that the offender has
20 completed the education course and evaluation requirement, and
21 has entered treatment. If the DUI program notifies the
22 department of the second failure to complete treatment, the
23 department shall only reinstate the driving privilege after
24 notice of completion of treatment from the DUI program. The
25 referral to treatment resulting from the psychosocial
26 evaluation shall not be waived without a supporting
27 independent evaluation to be conducted by an authorized
28 substance abuse treatment provider appointed by the
29 department, which shall have access to the DUI program
30 psychosocial evaluation before the independent psychosocial
31 evaluation is conducted. The department shall review the

1 results and recommendations of both evaluations before
2 determining the request for waiver. The offender shall bear the
3 full cost of this procedure.

4 Section 5. Section 322.292, Florida Statutes, is
5 amended to read:

6 322.292 DUI programs supervision; powers and duties of
7 the department.--

8 (1) The Department of Highway Safety and Motor
9 Vehicles shall license and regulate all DUI programs, which
10 regulation shall include the certification of instructors,
11 evaluators, clinical supervisors, and evaluator supervisors.
12 The department shall, after consultation with the chief judge
13 of the affected judicial circuit, establish requirements
14 regarding the number of programs to be offered within a
15 judicial circuit. Such requirements shall address the number
16 of clients currently served in the circuit as well as
17 improvements in service that may be derived from operation of
18 an additional DUI program. DUI education and evaluation
19 services are exempt from licensure under chapter ~~chapters 396~~
20 ~~and 397~~. However, treatment programs must continue to be
21 licensed under chapter ~~chapters 396 and 397~~.

22 (2) The department shall adopt rules to implement its
23 supervisory authority over DUI programs in accordance with the
24 procedures of chapter 120, including the establishment of
25 uniform standards of operation for DUI programs and the method
26 for setting and approving fees, as follows:

27 (a) Establish minimum standards for statutorily
28 required education, evaluation, and supervision of DUI
29 offenders. Such minimum standards previously adopted by the
30 Traffic Court Review Committee of the Supreme Court of Florida
31 shall remain in effect unless modified by the department.

1 (b) Establish minimum standards for the administration
2 and financial management of DUI programs, including, but not
3 limited to:

4 1. Standards governing the types of expenditures that
5 may be made by DUI programs from funds paid by persons
6 attending such programs.

7 2. Standards for financial reporting that require data
8 on DUI programs expenditures in sufficient detail to support
9 reasonable and informed decisions concerning the fees that are
10 to be assessed those attending DUI programs. The department
11 shall perform financial audits of DUI programs required under
12 this section or require that financial audits of the programs
13 be performed by certified public accountants at program
14 expense and submitted directly from the auditor to the
15 department.

16 3. Standards of reciprocity in relation to DUI
17 programs in other states or countries that have programs
18 similar to the DUI programs licensed by the department.

19 4. Such other standards as the department deems
20 appropriate and necessary for the effective oversight of the
21 DUI programs.

22 (c) Implement procedures for the granting and revoking
23 of licenses for DUI programs, including:-

24 1. A uniform application fee in an amount sufficient
25 to cover the department's administrative costs in processing
26 and evaluating DUI program license applications. The
27 application fee shall not apply to programs that apply for
28 licensure to serve an area that does not have a currently
29 licensed DUI program, or where the currently licensed program
30 has relinquished its license.
31

1 2. Criteria for evaluating the need for additional
2 licensed DUI programs serving the same geographic area,
3 including:
4 a. The availability, quality of services,
5 accessibility, and adequacy of currently licensed providers.
6 b. The ability of the applicant to provide quality DUI
7 program services and the applicant's record of providing DUI
8 services in other areas of the state.
9 c. The availability of resources, including
10 appropriately trained and certified personnel employed by or
11 under contract with the applicant, and adequate applicant
12 funds for capital and operating expenses.
13 d. The applicant's ability to offer higher quality,
14 more frequent or more accessible DUI program services, and the
15 applicant's ability to offer improved services to persons with
16 special needs.
17 e. The immediate and long-term financial feasibility
18 of the applicant.
19 f. The probable impact of an additional licensed DUI
20 program on other currently licensed DUI programs serving the
21 same geographic area, in terms of the availability, quality,
22 accessibility, and adequacy of existing DUI program services.
23 3. Competing applicants and currently licensed DUI
24 programs serving the same geographic area may request an
25 administrative hearing pursuant to chapter 120 to contest the
26 department's determination of need for an additional licensed
27 DUI program in that area.
28 4. The department shall revoke the license of any DUI
29 program that does not implement or adequately provide the
30 services reflected in its application within the time period
31 stated in the application.

1 (d) Establish a fee structure for the various programs
2 offered by the DUI programs, based only on the reasonable and
3 necessary costs for operating the programs throughout the
4 state. The department shall approve, modify, or reduce fees as
5 necessary. ~~The DUI programs fees that are in effect on January~~
6 ~~1, 1994, shall remain in effect until the department adopts a~~
7 ~~fee schedule for the DUI programs system. After the adoption~~
8 ~~of the schedule, the programs shall adjust their fees to~~
9 ~~conform with the established amounts.~~

10 (e) Establish policies and procedures for monitoring
11 DUI programs compliance with all minimum standards established
12 by the department.

13 (f) The department shall oversee an ongoing evaluation
14 to assess the effectiveness of the DUI programs. This
15 evaluation shall be performed by an independent group and
16 shall evaluate the curriculum, client treatment referrals,
17 recidivism rates, and any other relevant matters. ~~The~~
18 ~~department shall report to the Legislature by January 1, 1995,~~
19 ~~on the status of the evaluation, including its design and~~
20 ~~schedule for completion.~~The department may use funds received
21 under s. 322.293 to retain the services and reimburse expenses
22 of such private persons or professional consultants as are
23 required for monitoring and evaluating DUI programs.

24 (g) Investigate complaints about the DUI programs and
25 resolve problems in the provision of services to DUI
26 offenders, as needed.

27 ~~(3) All DUI programs and certified program personnel~~
28 ~~providing DUI programs services that meet the department's~~
29 ~~standards and that are operating on January 1, 1994, may~~
30 ~~remain in operation until the department's license procedures~~

31

1 ~~are in place. At that time the DUI programs and certified~~
2 ~~program personnel may apply for relicensure.~~

3 (3)~~(4)~~ DUI programs shall be either governmental
4 programs or not-for-profit corporations.

5 ~~(5) The department shall report to the Supreme Court~~
6 ~~by December 1, 1994, and by December 31 of each succeeding~~
7 ~~year through 1996, on the general status of the statewide~~
8 ~~program. This report must include programmatic and statistical~~
9 ~~information regarding the number of licensed programs,~~
10 ~~enrollment and referral figures, program monitoring and~~
11 ~~evaluation activities, and findings, and the general steps~~
12 ~~taken by the department to implement the provisions of this~~
13 ~~section.~~

14 Section 6. This act shall take effect upon becoming a
15 law.

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17
18 HOUSE SUMMARY

19
20 Revises provisions of law relating to driving under the
21 influence to provide that any person convicted of driving
22 under the influence must, in addition to any other
23 penalty provided by law, complete a substance abuse
24 education course conducted by a licensed DUI program,
25 including a psychosocial evaluation, and, if referred,
26 substance abuse treatment. See bill for details.
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